

**REGULAR COUNCIL MEETING  
MONDAY, AUGUST 19, 2019  
COUNCIL CHAMBERS  
[www.lackawannany.gov](http://www.lackawannany.gov)**

Regular session of the Lackawanna City Council met in the Council Chambers, Council President Annette Iafallo presiding. The meeting was preceded by the Pledge of Allegiance led by Council President Annette Iafallo.

Meeting called to order  
NB: Meeting being recorded

Roll Call: Council: Present: Ingram, Schultz, Moretti, Surdyke, Iafallo

Dept. Heads: Present: Law, Public Works, Public Safety, Recreation, Development, Comptroller

**Approval of Minutes:** of regular meeting of July 22, 2019 and the special meeting of August 7, 2019

Moved by Iafallo seconded by Surdyke to adopt minutes of regular meeting and special meeting  
Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo Carried 5-0

**Departmental Reports:**

1. **City Comptroller-** A/P Check Listing #53, dated July 19, 2019
2. **City Comptroller-** A/P Check Listing #54, dated July 25, 2019
3. **City Comptroller-** A/P Check Listing #55, dated July 26, 2019
4. **City Comptroller-** A/P Check Listing #56, dated July 30, 2019
5. **City Comptroller-** A/P Check Listing #57, dated August 8, 2019
6. **City Clerk-** Monthly Revenue Report for July 2019
7. **City Treasurer-** Total Receipts deposited into the General Fund Account for July 2019

Moved by Iafallo seconded by Ingram to receive and file departmental reports one thru seven  
Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo Carried 5-0

**Communications from Department/Division Heads:**

**Public Safety-Request to Sell 2017 Chevy Tahoe**

8. To: City Council

I respectfully request that the City Council grant permission to sell a 2017 Chevy Tahoe which has been in use by the police department and was previously purchased through Federal Asset Forfeiture Funds statutes. I also request permission to purchase a new vehicle to replace this vehicle. Said vehicle will be purchased off the New York State Mini Bid contract.

Furthermore, I request that all proceeds from the sale of the aforementioned vehicle be placed in the police department asset forfeiture account A695, as required by the Federal Asset Forfeiture statute.

If you have any question, please feel free to contact me.

**RALPH GALANTI-DIRECTOR of PUBLIC SAFETY**

Moved by Iafallo seconded by Schultz to approve all three requests  
Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo Carried 5-0

**Amend Chapter 215-Traffic/Vehicle Laws**

9. To: City Council

Attached is a proposal for two changes to Ordinances 215 of the Traffic and Vehicle Laws.

The first is an addition to 215.23.E School Zones. This change will add Johnson Street and Pierce Street as "School Zone Areas" making the speed limit 15 mph during school hours. This will increase the safety for students at the Charter High School. Both are dead ends and will have little effect on traffic for the public.

The second is an addition to 215.43.207 Steelawanna Avenue (Parking Restrictions). This will create no parking north of Ridge Road on both sides of Steelawanna Avenue from the curb line to a point 60 feet north. There will be alternate parking on Steelawanna after this point. This is for the safety of Quikrete drivers and patrons of the new restaurant on the corner.

If you have any questions please feel free to contact me.

**RALPH GALANTI-DIRECTOR of PUBLIC SAFETY**

Moved by Iafallo seconded by Ingram to receive and file, act on ordinances

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**9. (A) AN ORDINANCE AMENDING CHAPTER 215, TRAFFIC AND VEHICLES, OF THE CITY OF LACKAWANNA MUNICIPAL CODE**

**BE IT ENACTED** by the City Council of the City of Lackawanna, New York as follows:

Chapter 215.31.E shall be amended to add the following:

- 3. Pierce Street
- 4. Johnson Street

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by Iafallo seconded by Schultz to adopt ordinance as written and direct DPW to erect proper signs

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**9. (B) AN ORDINANCE AMENDING CHAPTER 215, TRAFFIC AND VEHICLES, OF THE CITY OF LACKAWANNA MUNICIPAL CODE**

**BE IT ENACTED** by the City Council of the City of Lackawanna, New York as follows:

Chapter 215.43.207 Steelawanna Avenue shall be amended to add the following under **ON THE WEST SIDE:**

No parking or standing from the north curb line of Ridge Road to a point sixty (60) feet northerly therefrom.

No parking from the dead end to a point sixty (60) feet northerly of the north curb line of Ridge Road from 4:00 P.M. Wednesday to 4:00 P.M. Sunday.

**On the east side:**

No parking or standing from the north curb line of Ridge Road to a point sixty (60) feet northerly therefrom.

No parking from the dead end to a point sixty (60) feet northerly of the north curb line of Ridge Road from 4:00 P.M. Sunday to 4:00 P.M. Wednesday

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by Iafallo seconded by Moretti to adopt ordinance as written and direct DPW to erect proper signs

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**Budget Transfer-Development-Personal Services**

10. To: City Council

Please approve the budget amendment to appropriate funds from the Contingent Account and Sewer User Fees on City Property to increase Development-Personal Services for the short fall that occurred due to an unexpected employee retirement.

If you have any questions please feel free to contact me.

**CAROLYN A. NICOMETO-CITY COMPTROLLER**

Moved by Iafallo seconded by Schultz to receive and file, act on ordinance

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**10. (A) AN ORDINANCE AMENDING THE 2018-2019 BUDGET ORDINANCE ADOPTED JUNE 12, 2018**

**BE IT ENACTED** by the City Council of the City of Lackawanna, New York as follows:

**SECTION 1.** That the 2018-2019 Budget Ordinance adopted June 12, 2018 is hereby amended to increase appropriations for Development –Personal Services and reduce Contingent Account and Sewer User Fees and Assessments on City Property.

**SECTION 2.** That the 2018-2019 Budget Ordinance is hereby amended to add \$4,750.00 to budget Code A.3620.101 Development-Personal Services

**SECTION 3.** That the 2018-2019 Budget Ordinance is hereby amended to appropriate \$2,914.00 from A.1900.1990 Contingent Account

**SECTION 4.** That the 2018-2019 Budget Ordinance is hereby amended to appropriate \$1,836.00 from A.1900.1950 Sewer User Fees and Assessments on City Property

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by Iafallo seconded by Schultz to adopt ordinance as written

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**Budget Transfer-Assessment-Personal Services**

11. To: City Council

Please approve the budget amendment to appropriate funds from the Contingent Account to increase Assessment-Personal Services to account for an employee taking their senior status.

If you have any questions please feel free to contact me.

**CAROLYN A. NICOMETO-CITY COMPTRROLLER**

Moved by lafallo seconded by Ingram to receive and file, act on ordinance

Yeas: Ingram, Schultz, Moretti, Surdyke, lafallo

Carried 5-0

**11. (A) AN ORDINANCE AMENDING THE 2018-2019 BUDGET ORDINANCES ADOPTED JUNE 12, 2018**

**BE IT ENACTED** by the City Council of the City of Lackawanna, New York as follows:

**SECTION 1.** That the 2018-2019 Budget Ordinance adopted June 12, 2018 is hereby amended to increase appropriations for Assessment Personal Services and reduce Contingent Account.

**SECTION 2.** That the 2018-2019 Budget Ordinance is hereby amended to add \$3,820.00 to budget Code A.1355.101 Assessment Personal Services

**SECTION 3.** That the 2018-2019 Budget Ordinance is hereby amended to appropriate \$3,820.00 from A.1900.1990 Contingent Account

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by lafallo seconded by Schultz to adopt ordinance as written

Yeas: Ingram, Schultz, Moretti, Surdyke, lafallo

Carried 5-0

**Budget Amendment-Fire Department-Sale of 3 Old Fire Trucks**

12. To: City Council

Please approve the budget amendment to appropriate funds from fund balance for the sale of the 3 old fire trucks (recorded as revenue in the fiscal year ended July 31, 2019) to increase budget line Repairs to Equipment A.3410.443 for the fiscal year ending July 31, 2020. During the May 20, 2019 Council meeting, Council approved the sale of the vehicles. Due to the sales occurring in July 2019 the funds were not available to be utilized until the new budget year beginning August 1, 2019.

If you have any questions please feel free to contact me.

**CAROLYN A. NICOMETO-CITY COMPTRROLLER**

Moved by lafallo seconded by Moretti to receive and file, act on ordinance

Yeas: Ingram, Schultz, Moretti, Surdyke, lafallo

Moved 5-0

**12. (A) AN ORDINANCE AMENDING THE 2019-2020 BUDGET ORDINANCES ADOPTED JUNE 13, 2019**

**BE IT ENACTED** by the City Council of the City of Lackawanna, New York as follows:

**SECTION 1.** That the 2019-2020 Budget Ordinance adopted June 12, 2019 is hereby amended to increase appropriations for Fire Department Repairs to Equipment and decrease fund balance.

**SECTION 2.** That the 2019-2020 Budget Ordinance is hereby amended to add \$5,851.00 to budget Code A.3410.443 Fire Department-Repairs to Equipment

**SECTION 3.** That the 2019-2020 Budget Ordinance is hereby amended to appropriate \$5,851.00 of budget code A..5990 Appropriated Fund Balance.

**THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY**

Moved by Iafallo seconded by Moretti to adopt ordinance as written

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**Budget Transfers-2018-2019**

13. To: City Council

Please be advised, pursuant to Chapter 12.12 Subdivision (C) 2 of the City Charter, after a review of the Office of Department of Administration and Finance, Office of the City Clerk, Department of Development, Department of Public Works, Department of Public Works, Department of Public Safety, and Department of Recreation, the attached lists of transfers were made to balance were made to balance many of the 2018-2019 accounts.

(Complete list on file with City Clerk)

**CAROLYN A. NICOMETO-CITY COMPTROLLER**

Moved by Iafallo seconded by Ingram to receive and file

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**Public Works-Purchase Yard Rear Load Packer**

14. To: City Council

I request that the Council approve the purchase of a Heil 27 Cubic Yard Rear Load Packer through the National Joint Alliance Program with the purchase price of \$192,041.00. If you have any further questions please contact me.

**ANTHONY DESANTIS-COMMISSIONER of PUBLIC WORKS**

Moved by Iafallo seconded by Surdyke to approve request

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**Contract for Environmental Review of Sewer and Water Capacity Associated with TMP Redevelopment Project**

15. To: City Council

Enclosed for your review and consideration is a consultant agreement from LiRo Engineering to assess water and sewer capacity along Dona Street extension at the proposed TMP Properties site at 2305 Hamburg Turnpike, Lackawanna, NY. The assessment is a necessary component of the environmental review of this site. The contract is written for not to exceed of thousand dollars based upon the attached schedule of rates.

Also attached is a written commitment from the project sponsor to pay the costs of the city's assessment of the sewer and water capacity at the site for the same not to exceed price of \$12,000.

LiRo Engineering was the engineering firm who just completed designing the sewer and water systems along Dona Street extension, for Erie County, as part of the construction of the new road. They were selected to reduce costs associated with the determination of capacity at the site.

Because as the city's costs are wholly reimbursed by the project sponsor, TMP Properties, the net impact on the city's budget is \$0.00.

**RICHARD E. STANTON-DIRECTOR of DEVELOPMENT**

Moved by Iafallo seconded by Surdyke to approve request  
Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**Good Energy LP Agreement**

16. To: City Council

In May of this year the Council approved a resolution authorizing the Mayor to enter into an agreement with Good Energy LP which would allow residential and commercial customers to purchase electric utility service in bulk and hopefully at a reduced rate. In furtherance of that please see the attached agreement between the city of Lackawanna and Good Energy LP. As well as proposed legislation in furtherance of this program. I would appreciate it if you would place us on the upcoming agenda for Council approval.

(Complete agreement on file with City Clerk)

**RICHARD S. JUDA, JR.-CITY ATTORNEY**

Moved by Iafallo seconded by Surdyke to approve agreement and act on Local Law  
Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**16. (A) Local Law #1, 2019**

**Local Law adding a new chapter to the city of Lackawanna Code entitled “Community Choice Aggregate Energy Program”**

Be it enacted by the City Council of the city of Lackawanna as follows:

Section 1. This chapter shall be entitled “Community Choice Aggregation (Energy) Program”.

Article 1

1. Legislative Findings; Intent and Purpose; Authority

A. It is the purpose of this local law to seek to reduce the cost of natural gas and electricity to its residents.

B. The purpose of this CCA program as described to the city of Lackawanna by the Administrator is to allow participating local governments including the city of Lackawanna to procure energy supply service for their Residential and Commercial customers, who will have the opportunity to opt-out of the procurement, while maintaining transmission and distribution service from the existing Distribution Utility. This chapter establishes a program that will allow the total amount of natural gas and/or electricity being purchased by their Residential and Commercial customers. Bundled customers will have the opportunity to have more negotiating strength and consequential potential to lower their overall energy costs, and to improve customer choice in value, by providing an additional alternative source for electricity and natural gas; thereby, fulfilling the purpose of this chapter and fulfilling an important public purpose.

C. The city of Lackawanna is hereby authorized to participate in a community choice aggregation energy program pursuant to section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission case number 14-M-0224, proceeding on motion of the commission to enable community choice aggregation programs, order authorizing framework for community choice aggregation opt-out program (issued April 20, 2016), including subsequent orders of the Public Service Commission issued in connection with or related to case number 24-M-0224 (collectively, the “Order”).

D. This chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM LAW” of the city of Lackawanna.

2. Definitions.

For purposes of this chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this chapter shall have the meanings employed in the State of New York Public Service Commission’s Uniform Business Practices or, if not so defined there, as indicated below:

Administrator-Good Energy LP, a duly authorized not for profit corporation.

Bundled Customers-Residential and Commercial customers of electricity or natural gas (“fuels”) who are purchasing the fuels from the Distribution Utility.

Commercial-Nonresidential customers as permitted in the Order

Community Choice Aggregation program or CCA Program-a municipal energy procurement program, which replaces the incumbent utility as the default supplier for all bundled customers within the city of Lackawanna.

Distribution Utility-owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commissioner

Public Service Commission-the New York State Public Service Commission

Suppliers-energy service companies (ESCOs) that produce electric power in natural gas for Bundled Customers in connection with this chapter or, alternatively, generators of electricity in natural gas or other entities who produce and resell electricity or natural gas.

3. Establishment of a Community Choice Aggregation (Energy) Program

A. A Community Choice Aggregation (Energy) Program is hereby established by the city of Lackawanna, whereby the city of Lackawanna shall cooperate with the Administrator by participating in the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The city of Lackawanna’s role under the CCA Program involves the aggregating of the electric and/or natural gas supply for its residents, and the entering into a contract with one or more suppliers, through the Administrator, for the procurement of electricity and/or natural gas supply for its Residential and Commercial customers. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.

B. The city of Lackawanna’s procurement of energy supply through the CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility services. The city of Lackawanna will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with Suppliers through the Administrator on behalf of participating Residential and Commercial customers.

C. In order to implement the CCA program, the city of Lackawanna shall adopt one or more resolutions that outlined the process of and conditions for participation in the CCA program, as consistent with the Local Law and the Order. The city of Lackawanna shall adopt the following policies and agreements consistent with the Order: (i) an implementation plan; (ii) a data protection plan; (iii) a data

security agreement; and (iv) a certification of local authority (collectively “the Policies”). The policies shall be adopted, submitted, amended, supplemented and filed in accordance with the Order.

D. The Public Service Commissioner supervises retail markets and participates in these markets through legislative and regulatory authority in the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.

#### 4. Customer Eligibility

A. Residential and Commercial customers, regardless of size, shall be eligible to participate in the CCA Program.

B. The Administrator shall apply opt in an opt out status to customers in accordance with the Order.

#### 5. Supplier Section; Supplier Contracts

A. The Administrator, on behalf of the city of Lackawanna, shall issue one or more requests for proposals to Suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program.

B. The terms of the Supplier contracts (“CCA Contract”) shall comply with the Order

#### 6. Opt-Out Notice and Procedures

A. The Administrator shall provide information and education to potential CCA customers over no less than two (2) month period

B. The city of Lackawanna shall mail opt-out letters to eligible opt-out customers provided: (i) the policies have been filed; and (ii) it opt-out letters have been deemed compliant.

C. The opt-out letters shall comport with the requirements set forth in the Order

D. The initial opt-out period shall be thirty (30) days after notification is sent to the customer.

#### 7. Customer Data Sharing

A. The Administrator may request the Distribution Utility’s aggregated customer information on all Bundled Customers in the city of Lackawanna provided the Public Service Commission has approved the Policies

B. Provided the Administrator has complied with the requirements of (A), the Distribution Utility shall transfer the aggregated customer and usage data within twenty (20) days of a request from the Administrator in accordance with the Order.

C. Customer-specific information may be requested for all eligible customers once the Administrator demonstrates that the requisite contracts with ESCOs have been entered into and executed. Detailed customer information may be requested for eligible customers who did not opt-out once the initial opt-out period has closed.

D. After the Administrator has entered into a CCA Contract with an ESCO, the Distribution Utility shall transfer customer-specific data to the Administrator within five (5) days of a request in accordance with the Order.

E. The Administrator, the contracted Supplier, and the city of Lackawanna will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

Section 2. This local law shall take effect upon filing with the Secretary of State

Moved by Iafallo seconded by Surdyke to adopt Local Law as written

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

### **Communications from Citizens:**

#### **Homecoming Parade**

17. To: City Council

On behalf of the Lackawanna City School district, I am writing to ask your approval in holding a **Homecoming Parade on Saturday, September 14, 2019 at 12 pm**. It has been some time since the high school has celebrated with the community for this event. Those involved are very excited about this idea and hope to gain your support. The parade would start at Martin Road Elementary School and proceed up Martin Road to the Lackawanna High School football field.

I would also like to request support from the Lackawanna Police Department in guiding traffic for the duration of the parade as well as inviting a squad car to participate in the procession. I look forward to hearing your decision. Thank you for your time and I hope that we can count on you for this event.

**HEIDI LIPKA**

Moved by Iafallo seconded by Schultz to approve request, refer to Director of Public Safety

Yeas: Ingram, Schultz, Moretti, Surdyke, Ingram

Carried 5-0

#### **Commissioner of Deeds Status-Halsey**

18. To: City Council

The undersigned resident of the First Ward of the City of Lackawanna formally requests the City Council to approve Commissioner of Deeds status.

I thank you and the entire City Council in advance of your collective consideration of this request.

**GEORGE W. HALSEY III**

Moved by Iafallo seconded by Ingram to approve request, term to expire 12/31/20

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

#### **Waive Rules:**

Moved by Iafallo seconded by Ingram to waive rules

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**Use of Veterans Stadium**

To: City Council

Lackawanna Little Loop football and cheerleading is hereby requesting use of Veterans Stadium for practice for the upcoming football season.

As you know, Pride L teaches the great football and cheerleading fundamentals for over 200 Lackawanna youths. We've enjoyed a tremendous partnership with the city and our organization is growing each year thanks to our wonderful partnership with the city.

We are requesting use of Veterans Stadium from August 23, 2019 until December 7<sup>th</sup>, 2019

Enclosed is a copy of our insurance policy, as requested.

Thank you in advance for your consideration!

**KEVIN PAGLIEI-COMMISSIONER of LACKAWANNA LITTLE LOOP**

Moved by Iafallo seconded by Moretti to approve request, refer to Law Department for contract

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

**Adjournment:**

Moved by Iafallo seconded by Ingram to adjourn the meeting

Yeas: Ingram, Schultz, Moretti, Surdyke, Iafallo

Carried 5-0

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Annette Iafallo-Council President

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Jeffrey P. DePasquale- City Clerk